APPENDIX.

Laws of 1824, Page 158.

AN ACT to incorporate a company to form an artificial navigation betwen the Passaic and Delaware rivers.

WHEREAS the construction of a Canal to unite the river Delaware near Easton, with the tide water of the Passaic, will be of great public benefit and advantage to the people of New Jersey; now therefore, in order to secure to the state the results of this public work, and also as an inducement to a company to engage in this important undertaking, and in consideration of the risks and ependitures which they may encounter in its execution and operations.

THEREFORE—

1. BE IT ENACTED by the Council and General Assembly of this State and it is hereby enacted by the authority of the same, That Jacob S. Thompson, of Sussex, Silas Cook, of Morris, John Dow, of Essex, Charles Board, of Bergen, and all and every other person or persons who may become subscribers according to the mode hereinafter prescribed, their successors and assigns shall be, and are hereby incorporated by the name of the "Morris Canal and Banking Company", for the purposes, and with the privileges and immunities, hereinafter described, defined and granted, and by that name shall be a body corporate and politic in law, and shall and may sue and be sued, implead and be impleaded in courts of justice or in any other place whatsoever; and that the said company shall have power and authority at any time after the passage of this act to purchase, receive in donation, possess, enjoy and retain, demise, grant, alien and sell all such lands, tenements, hereditaments, waters, streams, and water privileges, rights, goods, chattels and effects of every description

whatsoever, as may be necessary for carrying into effect any of the provisions of this act, and under the restrictions and limitations therein mentioned; and that the said company shall have perpetual succession, and power to make and use a common seal, and the same to change and renew at pleasure; and also to adopt, establish and carry into execution such by-laws, ordinances and regulations, as shall, by its president and directors be judged necessary or convenient for the said corporation, in respect to its canal and banking operations hereinafter mentioned; and the same to change, alter, repeal, annul and re-enact, provided the same be not contrary to the constitution or laws of the United States, or of the State of New Jersey.

2. And be it enacted, That George P. M'Culloch, and John Scott, of the county of Morris, Israel Crane, of the County of Essex, and Joseph G. Swift, Henry Eckford, and David B. Ogden, of the City of New York, be, and they are hereby appointed commissioners for receiving subscriptions for the sum of one million of dollars, to constitute the capital stock for the canal aforesaid, in shares of one hundred dollars each; and that the said commissioners, or a majority of them, shall and do open books for that purpose, at such time and in such place or places, within this state, as they shall designate by public advertisements, to be previously inserted for at least three weeks, in a public newspaper printed in Morristown, Newark and the City of New York, respectively, and shall continue the same open until the said capital stock shall be subscribed, or at their discretion close the same, after they shall have remained open two days, and again open the same at some other time or times, place or places, giving public notice thereof as aforesaid; and the sum of ten per cent. upon each share so subscribed, shall be paid in specie, or in the bills of banks which redeem their bills with specie, by each subscriber, at the time of subscription to the said commissioners, or a majority of them, and the amount so received at the time of subscription, shall, by

the said commissioners, or a majority of them, be deposited in such bank or banks, as the said commissioners, or a majority of them may elect in their joint names, there to remain until the same shall be by them paid over to the directors of the said company, to be appointed as hereinafter directed; and that the said directors, when so appointed, shall have power, and they are hereby authorized to call upon the said subscribers for the payment of farther instalments, in such sum or sums, at such time or times, and under such forfeiture or forfeitures as they may deem expedient, until the whole amount of the said shares so subscribed shall have been fully paid.

3. And be it enacted, That the management of the concerns of the said company shall be, and the same is hereby vested in fifteen directors, to be selected from the stockholders; and that the said directors shall choose, by plurality of votes, a president from among themselves; and as soon as conveniently may be, after the said stock of one million of dollars shall have been subscribed, the before named commissioners, or a majority of them, shall convene the said stockholders, by public notice, to be given as aforesaid, and at such time and place as they shall designate in said notice, to choose the first board of directors, who shall hold their offices until the first Monday of April, eighteen hundred and twenty-six; and if for any cause whatsoever, an election of directors should not be made on the day whereon, in pursuance of this act, it ought to be made, the said corporation shall not for that cause be deemed dissolved, but it may be lawful at any other time to hold such election, public notice of the time and place being previously given as aforesaid, and until such election be made, the president and directors, for the time being, shall continue in office, provided such election be held before the first day of January next ensuing the stated day of election; and in case of the death, resignation, incapacity, or removal of the president, or of one or more of the directors, the vacancy thereby oc-

casioned may be supplied by appointments to be made by the board of directors; and at all elections of directors, each stockholder shall be entitled to one vote for every share of stock by him or her held.

4. And be it enacted, That no state, county, township, or other public assessments, taxes or charges whatsoever, shall at any time be laid or imposed upon the said canal company, or upon the stocks and estates which may become vested in them under this act; but this exemption shall not extend to any other estate or property of the company, than such as is possessed occupied and used by the said company for the actual and necessary purposes of said canal navigation under this act, according to the true intent and meaning thereof; and no tax shall be imposed upon any property of said company or of other persons transported or used upon or about said canal of greater amount according to the value of the article taxed than shall at the same time be imposed upon the property of the same or similar kinds in the State of New Jersey.

5. And be it enacted, That it shall be lawful for the said company to construct, make and execute a canal or artificial navigation, to connect the waters of the Delaware river near Easton, with the tide waters of the Passaic river, and passing through the County of Morris, with all the locks, works, devices, wharves, toll houses and offices, necessary for the use of said canal; and it shall and may be lawful for the said company by its president and directors, and by any agent, engineer, superintendent or contractor or any other person or persons employed in the service of said company, to enter from time to time and at all times upon all lands, whether covered with water or not for the purposes of exploring or surveying the route or routes for said canal, and locating the several works as above specified; doing thereunto no unnecessary damage, and when the said route or routes shall have been fixed upon, and its several works located by the president and direc-

tors or a majority of them, and a survey thereof deposited in the office of the secretary of state, then it shall be lawful for them and for any agent, superintendent, engineer, contractor or any person or persons employed in the service of said corporation, at any time to enter upon, take possession of, and use all and singular such lands, water and streams, subject to such compensation to be made therefor as is hereafter directed.

6. And be it enacted, That where lands, waters and streams that may be useful for said canal, shall not be made a free gift by their owner or owners, to the said company, then the company shall pay to the owner or owners, such compensation, as shall be mutually agreed upon; and in case of disagreement in relation to the value of such lands, waters and streams, or in case the owner or owners thereof be *feme covert* and under age, *non compos mentis*, or reside out of the state, then it shall be lawful to, and for the aforesaid president and directors, from time to time, to cause a survey or surveys, and map or maps, to be made of any of the lands, waters, and streams, in their estimation requisite and not given as aforesaid, and which they are authorized by this act, to take for the uses aforesaid; in the field book of which map and survey or maps and surveys shall be distinguished the land or waters of each of the several owners and occupants, appropriated or intended to be appropriated as aforesaid, and the quantity thereof, and shall exhibit the same, to one of the justices of the supreme court, in this state, not being a stockholder, (having given at least ten days previous notice, in writing to the parties concerned, if resident in the state, and by publication in at least two gazettes published in the counties to be traversed by the canal, of the time and place of such exhibition,) such book and map being accompanied by the oath or affirmation of one of the engineers, employed by said company, that the premises therein described are required to be occupied by the company, for the purpose of carrying into

effect the object set forth by this act, and are not more than is requisite for the said uses; and thereupon it shall be the duty of said justice to certify such map and book under his hand and seal, and to cause the same to be filed in the office of the clerk of the county, where such land, water, or stream, may be situated, there to remain a public record; and it shall also be the duty of the said justice, at the time and place aforesaid, by a writing under his hand and seal, to appoint three discreet and disinterested freeholders, chosen from some county or counties not intersected by the canal, as appraisers, who shall, before they enter upon the duties of their appointments, severally take and subscribe an oath or affirmation before some person authorized to administer oaths, faithfully and impartially to perform the duties required of them by this act, and shall receive such compensation to be paid by the said company, as the justice by whom they are appointed shall determine; and it shall be the duty of said appraisers, or a majority of them, if requested so to do, by the owner or owners, or by the company to make a just and equitable estimate and appraisal of the value of the lands and damages to the several owners, proprietors or parties interested in the premises so required, for the purposes aforesaid, the said appraisers having given ten days previous notice of the time and place of meeting, to make such appraisment to the owner or owners resident in this state; and the appraisers or a majority of them, shall make regular entries of their determination and appraisal in a book or books to be by them kept for that purpose, and shall certify the same under their hands and seals, acknowledging the same before some person authorized to take the acknowledgment of deeds, and shall cause such book or books to be filed in the office of the clerk of the county, in which the lands may be situated, there to remain a public record; and the company shall pay or tender the damages so assessed to the person or persons entitled thereto; or in case such owner or owners shall be *feme covert*, under age, *non*

compos mentis, or reside out of the State of New Jersey, the said company shall pay the same into the court of chancery of this state, to be disposed of under the order of the chancellor, according to the laws of this state; and immediately thereupon the estate, right, property and interest in and to the premises so appropriated, described and appraised, shall be vested in the company, to be by them held so long as they shall be used for the purposes of said canal.

7. And be it enacted, That it shall be lawful for the president and directors of said company, and their superintendents, engineers, workmen and laborers, with carts, wagons, and other carriages, and with their beasts of draught and burden, and all necessary materials, tools and implements to enter upon all lands, contiguous or near to the route or tract of the canal, doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and to take and carry away any stone, gravel, clay, sand or earth there, being most conveniently situated, and being most suitable for making or repairing said canal, the locks and other devices before mentioned thereto belonging; the said owners or occupants being entitled to a fair compensation or remuneration for the materials taken or damages done, if claimed within twelve months from the time of such damage sustained, or materials taken away; and in case of disagreement as to the amount of such damage, then it shall be lawful for the clerk of the common pleas of the county, upon the application of the company, to appoint three judicious disinterested freeholders as appraisers, who having given at least fifteen days notice to the owners, occupants, or persons having charge of such lands, and having been previously sworn, fairly and impartially, to inquire into, and report the amount of the said damages, shall deliver to each party, or deposit in the clerk's office of the county for their use, a copy of their appraisal under their hands and seals; which appraisal shall be conclusive evidence, of the amount of

damages in any suit to be brought therefor (deducting therefrom, on such suit, all costs and charges of the appraisement if the amount so appraised shall not exceed one dollar, nor be less than what the company offered to pay, before the appointment of appraisers.

8. And be it enacted, That the president and directors, or a majority of them, shall have power to elect all engineers, treasurers, collectors, cashiers, tollmen, clerks, agents, artificers, workmen, laborers, servants, and officers whatsoever, necessary in their judgment, for conducting the affairs of the company, and to dismiss and elect others at their pleasure, and also shall have power to charge and collect tolls, and rates for the passage of all boats, goods, draught, cattle, wares, passengers, produce and merchandise whatsoever, upon the canal, or upon its banks, and to make, enact, and at pleasure, to change and re-enact such tolls, and rates, and also regulations and rules, for the collection and levying of the same, as to them may seem proper; provided, the company shall at no time charge more than three cents per ton per mile on the passage of coal, lime, gypsum, iron, iron ore and stone, and a proportional charge upon other articles, contemplating their bulk, weight, and value, and a card thereof, to be put up in a conspicuous place, at every lock, or other point on said canal, where tolls shall be required to be paid; and if at any time hereafter, the said president and directors, shall deem it expedient to increase their capital stock for the canal aforesaid it shall be lawful for them so to do, and to obtain subscriptions for the same, and to manage and direct the same agreeably to the provisions, true intent and meaning of this act; and all stockholders of such additional shares, and their assigns, shall be thenceforward incorporated into the same company:—Provided always, that a preference of subscription shall always be given to actual stockholders, in proportion to the shares they shall respectively hold, and that such additional stock shall not exceed five hundred thousand dollars.

9. And be it enacted, That at the general meeting of the stockholders to be held annually, agreeably to the second section of this act, a general statement of the affairs of the company shall be made, and exhibited, by the president and directors, and the president and directors, or a majority of them, shall at that meeting, or as often as to them may appear expedient, declare such dividends of the net profits of the company as they may think proper.

10. And be it enacted, That the capital stock of said company, shall be deemed personal property, and that all shares of the capital stock, at any time, owned by any stockholders, shall be transferable on the books of the company, in such manner, as the by-laws shall ordain; but all debts due or payable to the company, and also all outstanding engagements with it, shall be satisfied previously out of said stock, before such transfer can be made, and before any dividend or dividends shall be paid upon such shares, unless by the consent of the president and directors.

11. And be it enacted, That under the powers and conditions stipulated in the foregoing enactments, it shall be lawful for the company to alter at any time, any part or parts of the route of the canal, making compensation for damages to owners, as herein before directed, and that it shall not be lawful for any person or persons, or any body politic, or corporate; whatsoever, to construct any canal within ten miles of any point of the main trunk of the Morris Canal, without the consent of the said company, expressed in writing, under their common seal; but this prohibition shall not extend to the construction of any canal, of less than ten miles in length, and which does not approach within two miles of the canal to be constructed under this charter, and saving to any person or persons, or body corporate, any of their just and legal rights, already vested, to the contrary of such prohibition; and it shall be the duty of the chancellor of this state,

upon application made therefor, by the solicitor of the company, in due form, to issue his injunction, to stay and prevent the construction of any such canal, and also it shall be lawful for the said company, to raise the waters in the Green Pond, and lake Hopatcong, commonly called the Great Pond, by damming the same, and to use the surplus waters, thus saved, and so much water of said ponds as shall be necessary for said canal, and to take and convey said waters, into said canal; all loss and damages, to the owners of said ponds, and the lands flowed, or otherwise, used in obtaining water for the same, as aforesaid, being paid for agreeably to the previous provisions of this act.

12. And be it enacted, That when the said canal shall cross any public road or farm, it shall be the duty of said company at their proper expense, to make good and sufficient bridges across said canal, and to keep the same in repair, so as to prevent any inconvenience in the usage of the said road, or farms, by reason of the said canal crossing the same.

13. And be it enacted, That if any person or persons shall in any manner, wilfully and maliciously, destroy, injure, or obstruct said canal, or any of its parts, or works therewith, connected, or unnecessarily and maliciously open any gates thereon, or otherwise let off and waste water, to the detriment of said company, he, she or they, shall be considered guilty of a misdemeanor and being thereof convicted shall be punished by fine or imprisonment, or both at the discretion of the court in which such conviction shall take place; Provided, such fine shall not exceed the sum of twenty five dollars, nor the imprisonment, the term of two years; and such criminal prosecution, shall in no wise impair the right of action, for damages, by a civil suit to be brought by the company.

14. And be it enacted, That for the encouragement of so great an undertaking, as the erection of said canal,

and in some measure to induce capitalists and others to subscribe for the same, it shall be lawful for the said company, to increase the capital stock of said company for the purpose of banking operations; but under the following conditions, limitations, and restrictions, namely, that as soon as the said company shall have actually paid, laid out and expended the sum of two hundred thousand dollars, in the purchase of lands, waters, and water privileges, necessary for the construction and uses of said canal, and in constructing, making and building the same, it shall and may be lawful for the president and directors aforesaid, to call from the stockholders respectively of said canal company, for the time being, in proportion to their respective shares, the sum of two hundred thousand dollars, or any less sum, in the discretion of said president and directors, towards a capital for banking purposes as aforesaid, and so often thereafter as the said company shall have paid, laid out and expended other like sum, of two hundred thousand dollars, in the purchase of lands as aforesaid, and in constructing, making and building the said canal as aforesaid, it shall be lawful for the president and directors aforesaid, to increase the capital stock of said company, for banking purposes, to such further amount, of two hundred thousand dollars; Provided that the said increased capital of the company for banking purposes shall not exceed in the whole, one million of dollars; and the president and directors, shall and may upon any increase of the capital of said company, for banking purposes as aforesaid, call for the same, from the stockholders respectively, at such time and in such instalments in proportion to their respective shares, and upon such notice, and under such forfeitures, as they shall prescribe; Provided always, that no such increase of stock for banking purposes as aforesaid shall at any time be made, by reason of an alleged exependiture of any of the respective sums, of two hundred thousand dollars, as aforesaid, until the president and directors aforesaid, shall have first caused to be exhibited to the governor or person administering the

government of this state, a just and full statement, and account, showing that such expenditure of two hundred thousand dollars, had actually been made in and about the purchases, necessary for the construction of, and in the various works as aforesaid, of said canal, and the president and cashier, or person keeping the accounts of said company, shall severally certify the said account of expenditures, to be just and true, and subscribe their names thereto; and moreover make, subscribe and annex to the same their respective oath or affirmation, taken before one of the justices of the supreme court of this state, that the said account is just and true to the best of their knowledge and belief; and shall otherwise, if required, by the said governor, or person administering the government, prove to his satisfaction that the same is true, and further obtain from said governor, or person administering the government, a certificate under his hand, and the seal of the state, certifying that it hath appeared to him that the said sum of two hundred thousand dollars, has been actually expended upon, and towards the said canal, according to the provisions of this act, and that the said company is entitled to increase its capital stock, for banking purposes to that amount; which certificate the said governor or person administering the government, upon his being satisfied of the truth, and fairness of said account, is hereby authorized and required to grant; and the said president and directors, before any increase of their said capital for banking purposes to such additional amount of two hundred thousand dollars as aforesaid, shall cause the account and statement exhibited and sworn to as aforesaid, to be filed in the office of the secretary of state; and the certificate of the governor, or person administering the government as aforesaid, to be recorded in the same office; a certified copy of which certificate and account, by the secretary of state, under the great seal of the state shall be received in all courts in this state as evidence that such expenditures of two hundred thousand dollars was made on, or towards the said canal, at the exhibition of the account as aforesaid.

15. And be it enacted, That if the person acting as president and the person acting as cashier or accountant of the said company, and who shall have made or exhibited any such account as aforesaid, or either of them, shall wilfully and knowingly make a false oath to the same, such person shall be deemed guilty of perjury and on conviction of the same shall be subject to the pains and penalties of wilful and corrupt perjury.

16. And be it enacted, That within one year after the first increase of the capital stock of the said company, for banking purposes as aforesaid, shall have been made, and so annually thereafter, until the said canal shall be completed, the said company shall cause to be made out a just and true account of their expenditures upon said canal, within each of the said years respectively, which account shall be certified and sworn to by the acting president and cashier or accountant in manner as directed in the fourteenth section of this act; and the said account shall be filed within such year in the secretary's office of this state; and whensoever it shall appear by such annual account in any year, that the said company have not actually expended on said canal, at least the sum of one hundred thousand dollars within such year, or if the said company shall neglect to file said account in manner aforesaid, in any year, then, and in either case, the said company shall wholly cease from and discontinue all banking discounts and operations upon their said increased capital for banking purposes, and shall not resume the same until the said account shall have been proved and filed as aforesaid, and showing such annual expenditure.

17. And be it enacted, That if the said acting president and cashier, or accountant, or either of them, shall wilfully make a false oath to any such account as is mentioned in the foregoing section, such person shall be deemed guilty of perjury, and on conviction of the same,

be subject to the pains and penalties of wilful and corrupt perjury.

18. And be it enacted, That the banking house of the said company shall be situated, and their banking operations be conducted in the city of Jersey, in the county of Bergen, and it shall be the duty of the president and cashier of the said corporation for the time being, once in two years, to make a full return to the secretary of state, under oath, of the stock of said company used in banking operations, where the same is employed, how much specie is in the vault or vaults, of their banking house, or banking houses, what amount of notes of said company are in circulation, and the amount of debts due from and owing to said company; and in case the said president and cashier shall neglect or refuse so to do, for the space of ninety days, the legislature may at any time thereafter in their discretion, suspend said banking operations.

19. And be it enacted, That the funds of the said company shall never be employed in any other operations, nor for any other purposes than those provided for in this act.

20. And be it enacted, That nothing in this act shall be taken to impair the right of any person to an action against the said company for damages to his or her water rights, lands, tenements or hereditaments by the erection of said canal where such person hath not been agreed with by the said company, or his or her damages, right and estate satisfied and vested in the said company, under the previous provisions of the act.

21. And be it enacted, That in eleven years after the passing of this act and annually thereafter, the president and directors of said company shall be, and they are hereby required to pay or cause to be paid into the

treasury of this state, the one half of one per cent. on the whole amount of such capital actually subscribed and paid in, and which shall thereafter be paid into such company for banking purposes as aforesaid; and upon neglect to refusal so to do by said president and directors, the said tax shall and may be recovered in such manner as is directed in an act entitled "An act to tax bank stock," passed November second, one thousand eight hundred and ten, or any other act or acts of the Legislature for the time being, for the recovery of tax, on bank stock; and the said tax when collected shall be appropriate as other bank tax is or shall by law be directed to be appropriated.

22. And be it enacted, That so much of this act as relates to banking rights and privileges upon the increased capital of the company for banking purposes as aforesaid, shall continue and be in force for and during the term of thirty one years from the passage of this act.

23. And be it enacted, That unless one million of dollars shall be subscribed as aforesaid, on or before the first day of November next, and also unless the said canal shall be completed and opened for the passage of boats within fifteen years from the passage of this act, then the same shall be, and is hereby declared to be null and void.

24. And be it enacted, That the said company shall and may be, and are hereby made capable of using any part of their capital which shall be paid in for banking purposes as aforesaid, for the following additional purposes, that is to say, in buying and selling bills of exchange, or the stock of any body or bodies corporate and politic, and in loans upon bonds and mortgages; and they may bind themselves by contract not under seal, and receive and take by deed or devise any effects and prop-

erty, both real and personal, which may be left or conveyed to said company, in trust, and to assume, perform and execute any trust which has been or may be created by any deed bequest or devise as aforesaid; and the said company is hereby authorized and empowered to receive, take, possess, and stand seized of, and to execute any and all such trust or trusts in their corporate capacity and name, in the same manner and to the same extent as any private trustee, or trustees, might or could lawfully do, and no further; but it is hereby expressly declared, that the privileges hereby granted to the said company, for receiving, and executing trusts, are solely for the purpose of the protection of property so conveyed to them, and not for the purpose of aiding, or promoting any traffic in any kind of stocks, or in any kind of goods, wares or merchandizes; and in case any kind of goods, wares or merchandizes, shall be so conveyed, or bequeathed, in trust as aforesaid, the said company shall dispose of the same, as soon as it conveniently can be done, and the avails thereof shall be invested in stocks, or in bonds and mortgages, or other permanent securities for the sole use of the person or persons beneficially interested therein; and the said privileges shall not be so construed, as legally to empower the said company to take any other kind of trusts than such as are usual with other trustees: Provided always, that this act shall not extend to create any entailment, trust, or perpetuity, contrary to any existing provision of law.

25. And be it enacted, That the said canal when completed, shall for ever thereafter be esteemed a public highway, free for the transportation of any goods, comcodities or produce whatsoever, on payment of the tolls, and conforming to the regulations made or authorized by this act and it shall be lawful for the legislature of this state, at any time hereafter, to appoint three commissioners for the purpose of fixing and regulating the tolls to be taken on said canal; which shall be done by the said

commissioners in conjunction with two commissioners to be appointed by the company, unless the said company should refuse or neglect upon due notice to appoint any commissioners on their part, in which case the said commissioners on the part of the state or a majority of them, shall fix and regulate the tolls with due regard to the interests of the company and of the citizens of this state: Provided always, that they shall not have power to reduce said tolls lower than one half the greatest amount allowed by the ninth section of this act, without the consent of the president and directors of the said company.

26. And be it enacted, That at the end of ninety nine years from the passing of this act, it shall and may be lawful for this state, to take to itself, and on its own account the said canal and its appurtenances, paying to the said company the fair value thereof, to be estimated and fixed upon by ten commissioners or a majority of them, to be mutually chosen by this state and the said company; or in case that shall not be done at that time, or within one year thereafter, this charter shall continue so far as respects its canal operations, and privileges for the further term of fifty years, when it shall cease, and the said canal with its appurtenances become the sole property of this state.

27. And be it enacted, That the first, fifth, sixth and eleventh, sections and every other part of this act shall be so construed as that the said corporation shall not be authorized to take or appropriate to the use of said canal or under color or pretence that the same are necessary therefor, any lands, waters or streams of water, but such only as are actually necessary for the erection and use of said canal for the purpose of navigation only and its necessary towing paths and works as specified in the fifth section of this act; and that the said corporation shall not be authorized to demise, grant, alien or sell any such lands waters or streams of water, taken or

pretended to be taken or acquired for the use of said canal as aforesaid, or any part thereof, to any person or persons whomsoever (excepting only such lands as may be received by them by donation or acquired by them by private contract), and that the said corporation or any other person shall not be authorized to use or appropriate any part of said waters for mills or any other purpose than the mere navigation of said canal; and all waters not used for that purpose shall be permitted without unnecessary interruption to flow into their ancient and natural courses and channels; and that the twentieth section of this act shall be so construed, as to extend to damages sustained not only by the erection of the said canal in the first instance, but also by the subsequent operations of the said company from time to time, as the same may arise anything in this act before contained to the contrary notwithstanding.

28. And be it enacted, That this shall be a public act, and shall be judicially referred to by all judges, justices and others without being specially pleaded.

C. Passed December 31, 1824.

Chapter 212, Laws of 1922.

An Act to authorize the acquisition by the State of the Morris canal (as defined in this act), in whole or in part, and all the stock of the Morris Canal and Banking Company and the rights of all stockholders in said company and in said canal property and water rights, and all or any part of the right, title and interest of the Lehigh Valley Railroad Company in said canal property and water rights by virtue of its lease of said canal from the Morris Canal and Banking Company, or otherwise; to provide for a commission authorized to negotiate and agree upon terms of settlement with the Morris Canal and Banking

Company and the Lehigh Valley Railroad Company, in relation to the said canal property and water rights, and to vest in said commission certain powers necessary for carrying out the terms of settlement and to make such other provisions as may be necessary to effectuate the objects aforesaid.

WHEREAS, For the purpose of encouraging and promoting the construction of a public canal from the Delaware river to the Passaic river, the State, by act of December thirty-first, one thousand eight hundred and twenty-four, chartered the Morris Canal and Banking Company, and granted to said company certain franchises and priveleges mentioned therein, by virtue of which the said canal was constructed and completed to the Passaic river about the year one thousand eight hundred and thirty-one; and

WHEREAS, By subsequent legislative authority said canal was extended to the Hudson river about the year one thousand eight hundred and thirty-six; and

WHEREAS, By act of March fourteenth, one thousand eight hundred and seventy-one, the State authorized the making of a lease of the canal, its works, property and appurtenances, and the same were accordingly, on May fourth, one thousand eight hundred and seventy-one, leased to the Lehigh Valley Railroad Company, a corporation of the State of Pennsylvania, which company has since that time been in the possession of the canal; and

WHEREAS, It is desirable, among other things, that the State of New Jersey should acquire the said canal property and rights, in whole or in part; and

WHEREAS, The acquisition of the said property of the Morris Canal and Banking Company, in whole or in part, and the right, title and interest therein of the Lehigh Valley Railroad Company, and the other

property described in the provisions of this act, are deemed necessary for the public uses of the State and to effect the objects and purposes of this act;

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The term "Morris Canal" as herein used means and includes all of the property, lands, rights, easements, privileges and franchises of whatsoever character now vested in the Morris Canal and Banking Company as well as that which has passed to or has been directly or indirectly acquired by the Lehigh Valley Railroad Company, a corporation of the State of Pennsylvania, as lessee under and by virtue of a certain indenture of lease bearing date the fourth day of May, one thousand eight hundred and seventy-one, between the Morris Canal and Banking Company and said Lehigh Valley Railroad Company under and by virtue of the authority of an act of the Legislature entitled "A further supplement to the charter of the Morris Canal and Banking Company," approved March fourteenth, one thousand eight hundred and seventy-one, including two tracts of land and land under water in Jersey City fronting on the Hudson river, known as the "Little Basin" and the "Big Basin," respectively, and including any water rights and rights of diversion now or formerly vested in said Lehigh Valley Railroad Company or said Morris Canal and Banking Company, excepting any such rights that may have been acquired by any municipality of this State.

2. William H. Spear, of Jersey City, Hudson county, Frank H. Sommer, of Newark, Essex county, and Louis A. Focht, of Trenton, Mercer county, citizens of this State, are hereby appointed as commissioners to negotiate and agree upon terms of settlement with the Morris Canal and Banking Company and the Lehigh Valley Railroad Company, in relation to the matters hereinafter men-

tioned, who shall possess and have authority to execute the powers hereinafter provided. The said commissioners, before entering upon the discharge of their duties shall subscribe an oath, which shall be filed in the office of the Secretary of State, of New Jersey, that they will truly, faithfully and impartially, to the best of their ability, discharge the duties devolved upon them by this act. Said commissioners shall have power to hold hearings and to make investigations, either within or without the State of New Jersey, for the purpose of ascertaining the facts necessary to enter upon the negotiations, and to arrive at just terms of agreement and settlement, as provided in this act. Said commissioners shall be entitled, as compensation for their services, to the sum of five thousand dollars, each, to be paid at the rate of five hundred dollars per month until they have filed their report as hereinafter mentioned, whereupon they shall become immediately entitled to any balance of said sum of five thousand dollars not theretofore paid to them. They are authorized to expend a sum not exceeding ten thousand dollars for such assistance as they may require. The State Treasurer of the State of New Jersey shall honor all of the warrants of the commissioners for such compensation and expenses out of any funds in the State treasury otherwise unappropriated. In the event of the death, refusal, resignation or other inability of any of the persons named herein as commissioners to serve as such, the Governor shall appoint some one in the place and stead of such person.

3. Said commissioners are authorized, in behalf of the State of New Jersey, to make such terms of settlement and agreement between the State and the Morris Canal and Banking Company and the Lehigh Valley Railroad Company as they may deem advisable to secure the transfer of said Morris Canal as hereinbefore defined, in whole or in part, to the State of New Jersey, subject to the limitations hereinafter provided. Such settlement and agreement may include the grant by the State of any

of said canal property, or the State's rights therein to the Lehigh Valley Railroad Company, in consideration of the release by said company of its rights in the remainder of said Morris canal property, or upon other consideration in whole or in part; provided, that said commission shall not be authorized to make any settlement obligating the payment of any sum of money by the State to the Lehigh Valley Railroad Company or said Morris Canal and Banking Company or any other person.

Said commissioners shall make and file their report under this act on or before December first, nineteen hundred and twenty-two.

4. If said commissioners shall be unable to effect a settlement with the said canal company and the said railroad company, they shall report said fact to the next Legislature, together with any recommendations for further legislative action which they may deem advisable. If the commissioners shall make a settlement with the said canal company and said railroad company, they shall forthwith file with the Board of Conservation and Development of this State a report containing the terms of such settlement.

5. If the commissioners shall file a report fixing terms of settlement and agreement with said railroad company and said canal company, then said commissioners shall proceed to carry out the terms of said settlement and agreement. Said commissioners are authorized and directed in that event to cause to be executed on behalf of the State proper instruments in writing, approved as to form by the Attorney-General, signed by the Governor, and with the seal of the State thereto affixed, duly attested, conveying to the said railroad company or said canal company any and all right, title and interest of the State in said canal property agreed to be conveyed by said report of settlement and agreement, and to deliver such instruments to said company or companies, upon receiving from them appropriate instruments in writing,

approved as to form by the Attorney-General, to carry out on their part the terms of settlement as provided for in said report, and upon said companies performing any other things on their part to be performed.

6. The control and management of all the property, real and personal, conveyed and transferred to the State by the Lehigh Valley Railroad Company or the Morris Canal and Banking Company, or otherwise acquired, pursuant to the terms of this act, shall be vested in the said Board of Conservation and Development, subject to further action by the Legislature. If in order to carry out the terms of settlement and agreement made by the commissioners, it becomes necessary to condemn any of the shares of stock of the Morris Canal and Banking Company not owned by the Lehigh Valley Railroad Company, the proceedings for such condemnation shall be conducted by the Attorney-General at the request of the Board of Conservation and Development. Such proceedings shall be had under the provisions of the act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use" (Revision of 1900), and any supplement or amendments of said act so far as applicable and so far as consistent with the provisions of this act; *provided, however,* that the estate, right, title and interest of the Morris Canal and Banking Company and Lehigh Valley Railroad Company, General Securities Company, or their successors or assigns, in and to the waters of Lake Hopatcong and the lands under the same, together with the lock and dam at the outlet of the lake, with the lands necessary for their maintenance, operation and control, shall be vested in the State, and shall be maintained as and for an aquatic public park for boating, bathing, fishing and winter sports, and the lake level shall be maintained for said purpose at the normal high water mark as now established, natural elements permitting.

7. This act shall take effect immediately.

Approved March 11, 1922.

Agreement Made With the Lehigh Valley Railroad Company.

AGREEMENT made this twenty-ninth day of November, 1922, between Frank H. Sommer, Louis Focht and Edward L. Young, Commissioners acting on behalf of the State of New Jersey, under and by virtue of the authority of an Act of the Legislature of the State of New Jersey known as Chapter 212 of the Laws of 1922 of said State (p. 367), party of the first part, and Morris Canal & Banking Company, a corporation of the State of New Jersey, and Lehigh Valley Railroad Company, a corporation of the State of Pennsylvania, parties of the second part.

The parties hereto, in pursuance of and in accordance with the authority conferred by said Act, agree as follows:

First: On behalf of the State of New Jersey the said Commissioners agree as follows:

(1) To cause to be executed and delivered a proper instrument in writing conveying to the Lehigh Valley Railroad Company all the right, title and interest, present and reversionary, of the State of New Jersey of, in and to all of the lands, lands under water and premises located in Jersey City, Hudson County, New Jersey, referred to in said Chapter 212 of the Laws of 1922 as the "Big Basin" and more particularly described in Chapter CXXXIII of the Laws of 1867 of the State of New Jersey (p. 251) excepting therefrom, however, a strip of land under water for a public waterway as hereinafter provided for in Paragraph 4 of the undertakings of the parties of the second part.

(2) To cause to be conveyed by proper instruments in writing all the right, title and interest, present and reversionary, of the State of New Jersey of, in and to all lands, lands under water and rights of way of the Canal Company

in Jersey City and Bayonne between the center line of Washington Street in Jersey City and the Hackensack River at the point where said canal enters said river, but the said cities of Jersey City and Bayonne shall have the right to maintain and replace sewers, water pipes and other sub-surface structures now on said premises, subject, however, to the terms of any existing agreement or agreements relating to the same, and said cities shall have the further right to construct additional sewers, water pipes and other sub-surface structures across and under said premises at their own expense respectively, but free from any liabiilty to pay compensation or damages; provided, however, that said cities respectively in such case shall enter into a proper instrument in writing with the Lehigh Valley Railroad Company agreeing to indemnify said company against the results of any defective or improper construction or negligent use of any such sewer, water pipe or other sub-surface structure.

(3) To cause to be conveyed, by proper instruments in writing all the right, title and interest, present and reversionary, of the State of New Jersey of, in and to all lands, lands under water and rights of way of the Canal Company in the Town of Phillipsburg from the southerly line or side of Main Street adjacent to Green's Bridge over the Morris Canal to the point where the Morris Canal enters the Delaware River, but the Town of Phillipsburg shall have the right to maintain and replace sewers, water pipes and other sub-surface structures now on said premises, subject, however, to the terms of any existing agreement or agreements relating to the same, and said Town shall have the further right to construct additional sewers, water pipes and other sub-surface structures under said premises at its own expense but free from any liability to pay compensation or damages; provided, however, that said Town in such case shall enter into a proper instrument in writing with the Lehigh Valley Railroad Company agreeing to indemnify the said Company against the re-

sults of any defective or improper construction or negligent use of any such sewer, water pipe or other subsurface structure.

(4) To consent, and they do hereby consent, that the Provident Life & Trust Company of Philadelphia, Trustee, release the properties hereinbefore referred to from the lien of the mortgage of the Morris Canal & Banking Company securing the issue of bonds in the amount of $500,000 hereinafter referred to.

(5) To institute and prosecute to completion, when requested in writing by the Lehigh Valley Railroad Company, proceedings for the condemnation of any stock, consolidated or preferred, of the Morris Canal & Banking Company, the cost and expense of such proceedings, including the payment of the award for such stock, to be borne by said Railroad Company. Notice of the institution of any such condemnation proceeding shall be given to said Railroad Company and said Company shall be permitted to participate through its attorneys in the conduct thereof.

Second. Said Companies agree as follows:

(1) The Lehigh Valley Railroad Company will pay to the State of New Jersey in cash the sum of eight hundred and seventy-five thousand dollars ($875,000.00) in five equal annual installments, the first installment to be paid on the fifteenth day of December, 1922; subsequent installments to be paid on the fifteenth day of December in each year thereafter until said principal sum is fully paid. Interest shall be paid annually on the fifteenth day of December in each year subsequent to December 15, 1922, at the rate of five per cent. (5%) per annum upon such part of the principal sum as remains unpaid.

(2) The Companies will convey or cause to be conveyed in fee, except as hereinafter noted, to the State of New Jersey by deed of bargain and sale, with covenant by the

Lehigh Valley Railroad Company against its own acts and the acts of the Morris Canal & Banking Company, all the lands, lands under water and premises comprised within the Canal Terminal Basin in Jersey City, commonly called the "Little Basin," with the docks, wharves, slips and improvements appurtenant thereto, owned by said Companies or either of them, described as follows:

Beginning at a point in the center line of Essex Street extended distant 185 feet easterly at right angles from the center line of Hudson Street, running thence (1) easterly along the center line of Essex Street extended 790.03 feet more or less to the exterior line for piers in the Hudson River as now established; thence (2) southerly along said exterior line for piers 591.63 feet more or less to a point in the northerly line of the tract of land hereinbefore referred to as the "Big Basin"; thence (3) westerly along said line a distance of 1866.3 feet more or less to the center line of Washington Street; thence (4) northerly along the center line of Washington Street 360 feet; thence (5) easterly on a line parallel with Essex Street and distant 230 feet southerly from the center line thereof a distance of 650 feet to a point; thence (6) northerly at right angles to Essex Street 100 feet; thence (7) easterly parallel with Essex Street and Essex Street extended 471 feet more or less to a point 185 feet easterly at right angles from the center line of Hudson Street; thence (8) northerly at right angles to Essex Street extended 130 feet to the center line of Essex Street extended, the point of beginning; containing approximately 20.7 acres; together with the right, title and interest of the said parties of the second part in and to any lands, lands under water and easements lying in the Hudson River in front of the said premises; subject, however, to any public streets or highways; provided, however, that as to such part of said tract included within the lines of Essex Street extended the Companies convey their right, title and interest. Nothing herein, however, shall operate as a dedi-

cation or the recognition of the dedication of any street, highway or public place.

(3) The Lehigh Valley Railroad Company will extend the present branch of its railroad now running to Warren Street, Jersey City, from said Warren Street to said "Little Basin" along the present right of way of the canal, when requested to do so by the Board or authority having control or management of said "Little Basin," and subject to necessary State and Municipal consent.

The Lehigh Valley Railroad Company agrees that in traffic service to be accorded by the said Company with respect to the "Little Basin," the Jersey City and New York rates shall apply, with switching charges to be absorbed in the through rates to and from all connecting lines in Hudson County under tariffs to be approved by the Interstate Commerce Commission.

(4) The Companies will convey to the State of New Jersey by like deed with like covenant, for the purposes of a public waterway, all their right, title and interest in and to a strip of land and land under water located in Jersey City and partly within the limits of the "Big Basin" and bounded and described as follows:

Beginning at a point in the center of Washington Street, said point being 260 feet south of the southerly boundary of the "Little Basin"; thence northerly along the center line of Washington Street, 50 feet to a point 210 feet south of the southerly boundary of the "Little Basin"; thence eastwardly, parallel with and distant southerly 210 feet from the southerly boundary of said "Little Basin", 1845.5 feet more or less to the pierhead line on the Hudson River as now established; thence southerly along said pierhead line, 251 feet, more or less, to a point; thence westerly along the northerly line of the existing piers of the Lehigh Valley Railroad Company 2261 feet, more or less, to a point in the easterly line of

Warren Street, extended; thence northerly, along the said easterly line of Warren Street, extended, 200 feet to a point; thence eastwardly along a line parallel with and 260 feet south of the southerly boundary of the said "Little Basin", extended, 440 feet to the place of beginning, containing 12.541 acres more or less.

Until the present 200-foot public waterway running west from Washington Street to Warren Street shall be widened to a width of 250 feet by public authority, the Lehigh Valley Railroad Company shall have the right without cost to use the waters of the northerly 50 feet of the 250-foot public waterway hereinbefore described for the purpose of mooring boats.

Nothing herein contained shall be construed to create any obligation on the part of the State of New Jersey to incur any expense in dredging or otherwise maintaining the said waterways.

(5) The Companies will convey, or cause to be conveyed, to the State of New Jersey by like deed with like covenant all lands and right of way of the Canal Company between the westerly shore or bank of the Hackensack River in the Town of Kearny and the southerly line or side of Main Street adjacent to Green's Bridge in the Town of Phillipsburg aforesaid, and further, all the right, title and interest of said Companies or either of them or of any subsidiary company of, in and to all that part of the canal property and its feeders between the said westerly shore or bank of the Hackensack River in the Town of Kearny and the southerly line or side of Main Street adjacent to Green's Bridge in the Town of Phillipsburg, together with all the lands which said Companies last mentioned own which are appurtenant to or used in connection with the aforesaid part of the canal and its feeders, and also all lands, land under water, water and water rights, rights of flowage, pondage and diversion of water appurtenant to the canal, together with all rights

of the Canal Company and of its lessee, the Lehigh Valley Railroad Company, or of any one claiming under them or either of them, appurtenant to, or used in connection with the canal, to take, use, impound, divert, sell and dispose of water. The deed to be given to the State to embrace the surrender to the State by the Morris Canal and Banking Company and the Lehigh Valley Railroad Company of all the right and title acquired by or vested in said Companies or either of them to impound, divert or take water at any point within the State for any use or purpose in any way incident or pertaining to the canal or to the operation of the canal, its feeders, works or appurtenances.

The aforesaid conveyance shall be subject to the terms of the release given by the Morris Canal & Banking Company and its said lessee to the Mayor and Aldermen of Jersey City, dated May 12, 1909, and subject to the right of said Mayor and Aldermen of Jersey City continuously to maintain its drains, pipes and conduits down and along the inclined plane at Boonton and to conduct the same along the canal at a point below the first lock east of said plane so as to protect the water supply of said City from pollution; and also subject to the provisions of two certain contracts, namely, one made between the Lehigh Valley Railroad Company, the East Jersey Water Company, the Newark Aqueduct Board and the Mayor and Common Council of the City of Newark, dated September 24, 1889, relating to a supply of water for the City of Newark, and the second between the Morris Canal & Banking Company, the Lehigh Valley Railroad Company, and Patrick H. Flynn, dated November 21, 1898, relating to a supply of water for the City of Jersey City.

(6) The said Companies will assign, transfer and set over to the State of New Jersey all personal and mixed property of the said Companies used in connection with said canal.

(7) The Lehigh Valley Railroad Company will, at its own expense, maintain the said Morris Canal as a canal in the usual manner until the first day of March, 1923.

(8) The Lehigh Valley Railroad Company will assign, transfer and set over to the State of New Jersey, or its nominees, on or before December 30, 1922:

(*a*) All of the shares of the capital stock of the Morris Canal & Banking Company owned by said Lehigh Valley Railroad Company, being 9,921 shares of consolidated stock and 11,399 shares of preferred stock.

(*b*) All of the outstanding bonds of the Morris Canal & Banking Company, which said bonds are owned by said Lehigh Valley Railroad Company and have an aggregate par value of $500,000.

(*c*) All of the outstanding preferred scrip of the Morris Canal & Banking Company, which said scrip is owned by the said Lehigh Valley Railroad Company and has an aggregate par value of $42,080.50.

(9) The Lehigh Valley Railroad Company will acquire and assign, transfer and set over to the State of New Jersey all of the remaining outstanding stock, consolidated and preferred, of the Morris Canal & Banking Company not now owned by said Lehigh Valley Railroad Company. If the said Lehigh Valley Railroad Company cannot, on or before March 1, 1923, purchase such remaining outstanding stock at a price satisfactory to it and it therefore becomes necessary to condemn said shares of capital stock in order to acquire the same, said company shall request the Board of Conservation and Development of the State of New Jersey to bring proceedings in the name of the State to condemn said stock, and said proceedings shall be taken in accordance with subdivision 5 of the first section of this agreement and in

conformity with the provision of Chapter 212 of the Laws of 1922 aforesaid.

Pending the acquisition, by purchase or condemnation, and the transfer of said remaining outstanding shares of consolidated and preferred stock of the Morris Canal & Banking Company, the said Lehigh Valley Railroad Company will continue to pay the dividends thereon in accordance with its existing guaranty.

The Lehigh Valley Railroad Company will further, upon request of the Board of Conservation and Development of the State of New Jersey, deliver the resignations of all officers and directors of the said Morris Canal & Banking Company.

(10) The said companies will assign, transfer and set over, or cause to be assigned, transferred and set over to the State of New Jersey by a proper instrument in writing all existing leases, licenses and undertakings covering any part of any of the property to be conveyed or transferred to the State of New Jersey, and will deliver, or cause to be delivered, to the State of New Jersey all documents, maps, records, deeds and muniments of title relating to any of the property to be conveyed or transferred to the State of New Jersey.

(11) The Lehigh Valley Railroad Company will execute and deliver to the State of New Jersey on or before March 1st, 1923, a proper instrument in writing releasing any and all claims of every nature and description which the said company has, or may have, against the Morris Canal & Banking Company.

(12) The said companies hereby withdraw any and all protests heretofore made respecting taxes heretofore paid by the said companies to the State of New Jersey or to any municipality of the State on the canal property.

This withdrawal, however, shall not extend to or affect pending appeals involving the assessments for taxes for the years 1921 and 1922 on the "Little Basin" property, and the Lehigh Valley Railroad Company hereby agrees with respect to such assessments for taxes for the years 1921 and 1922 on the "Little Basin" property to pay such taxes as may finally be determined on said appeals to be due. Said companies shall not, nor shall either of them, be responsible for any taxes assessed for the calendar year 1923 or for any period after January 1, 1923, on the property conveyed and transferred or to be conveyed and transferred to the State of New Jersey under the terms of this agreement.

(13) The said Companies agree that any rents collected by them, or either of them, under existing leases, undertakings or licenses, covering or relating to any of the property to be conveyed or transferred to the State of New Jersey under the terms of this agreement for any period extending beyond January 1, 1923, shall be apportioned as of that date; rents for any leasehold period prior to January 1, 1923, shall be collected by and be the property of the Lehigh Valley Railroad Company.

(14) The Lehigh Valley Railroad Company will, in each of the several deeds of conveyance and instruments of transfer to be delivered hereunder by said company to the State of New Jersey, covenant that the property and rights to be conveyed or transferred are free from encumbrances, except as the same may be encumbered by rights created by and existing under the leases, agreements and other writings enumerated in the schedule attached hereto and marked "Schedule A", and except the mortgage securing the payment of bonds in the amount of five hundred thousand dollars ($500,000) hereinbefore referred to, and except encumbrances otherwise specifically set forth in this agreement.

There shall be excepted from the said several covenants against encumbrances and from the several covenants against grantor's acts which said Lehigh Valley Railroad Company has herein undertaken to enter into, the rights created by and existing under the leases, agreements and writings enumerated in the said Schedule A and said mortgage securing an issue of bonds in the amount of five hundred thousand dollars ($500,000) and any other encumbrances specifically set forth in this agreement.

(15) It is the intent of this agreement to vest in the Lehigh Valley Railroad Company all present and reversionary rights of the State of New Jersey in the properties referred to in Section 1 hereof, and to vest in the State of New Jersey all other property and rights of every description acquired by the Morris Canal & Banking Company and by the Lehigh Valley Railroad Company as its lessee, with the exceptions herein specifically provided.

(16) The Lehigh Valley Railroad Company covenants at its own expense to continue in possession and operate the canal and to maintain the same as hereinbefore provided under the existing lease until March 1, 1923, and the Morris Canal & Banking Company and the State of New Jersey covenant that the existing lease shall on that day be cancelled; the obligations of the Lehigh Valley Railroad Company for the payment of dividends on the outstanding stock to continue as hereinbefore provided.

(17) The Lehigh Valley Railroad Company hereby covenants that all debts of the Morris Canal & Banking Company have at the time of the execution hereof been paid and satisfied, except the liability for the payment of an issue of five hundred thousand dollars ($500,000) par value of bonds and an issue of scrip as hereinbefore referred to, and that no indebtedness shall be incurred by

said Morris Canal & Banking Company subsequent to the execution hereof and prior to the delivery to the State of New Jersey of the outstanding capital stock of said Morris Canal & Banking Company now owned by the Lehigh Valley Railroad Company, and the said Lehigh Valley Railroad Company further covenants to indemnify and save the Morris Canal & Banking Company and the State of New Jersey harmless from any claim or liability arising out of the operation of the canal property prior to March 1, 1923.

(18) The deeds of conveyance, instruments of assignment and tranasfer and other writings, to be executed and delivered by the parties hereto in performance hereof, shall be approved as to form by the Attorney-General of the State of New Jersey and shall be mutually delivered together with all documents, maps, records, deeds and other muniments of title at the office of the Board of Conservation and Development of the State of New Jersey in the City of Trenton on the first day of March, 1923, between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon, except as any other time or times may hereinbefore have been specifically designated with respect to the delivery of any such conveyance, instruments of transfer and other writings.

(19) The Morris Canal and Banking Company covenants to execute and deliver to the Lehigh Valley Railroad Company a proper instrument of conveyance of all of its right, title and interest, free from any lien or encumbrance created subsequent to delivery to the State of New Jersey of stock of the Morris Canal & Banking Company, now owned by the Lehigh Valley Railroad Company, in the lands, lands under water and other canal property in respect of which the right, title and interest, present and reversionary, of the State of New Jersey is, under the terms of this agreement, to be conveyed to the Lehigh Valley Railroad Company.

In witness whereof, the parties hereto have duly executed this instrument in quintuplicate the day and year first aforesaid.

Frank H. Sommer,
Louis Focht,
F. L. Young,
Commissioners acting on behalf of the State of New Jersey.

[seal.] Morris Canal & Banking Company,
By E. E. Loomis,
President.

Attest:
D. G. Baird,
Secretary.

[seal.] Lehigh Valley Railroad Company,
By E. H. Boles,
Vice-President.

Attest:
D. G. Baird,
Secretary.

Schedule A.

This schedule, attached to the original contract, contains an itemized list of agreements relating to wires, pipes, leases ,easements and other miscellaneous privileges (1) affecting the canal property between Hackensack River and Green's Bridge, Phillipsburg, as of November 1, 1922; (2) affecting the Little Basin at Jersey City, N. J.; and (3) affecting waterway between Hackensack River and the south side of Main Street, adjacent to Green's Bridge, in the Town of Phillipsburg, in respect of covenants in deeds as to existing bridges, etc.

[Note:—Original contract filed December 1, 1922, in the office of the Secretary of State of the State of New Jersey, Trenton, N. J., and duplicate original filed December 1, 1922, in the office of the State Board of Conservation and Development, Trenton, N. J.]

Chapter 11, Laws of 1923.

An Act to vest in the Morris Canal and Banking Company, in trust for the State of New Jersey, all of the property and property rights, other than shares of the capital stock, bonds and scrip of said company, acquired or to be acquired by the State of New Jersey under and by virtue of the agreement entered into under the authority of an act entitled "An act to authorize the acquisition by the State of the Morris canal (as defined in this act), in whole or in part, and all the stock of the Morris Canal and Banking Company and the rights of all stockholders in said company and in said canal property and water rights, and all or any part of right, title and interest of the Lehigh Valley Railroad Company in said canal property and water rights by virtue of its lease of said canal from the Morris Canal and Banking Company, or otherwise; to provide for a commission authorized to negotiate and agree upon terms of settlement with the Morris Canal and Banking Company and the Lehigh Valley Railroad Company, in relation to the said canal property and water rights, and to vest in said Commission certain powers necessary for carrying out the terms of settlement and to make such other provisions as may be necessary to effectuate the objects aforesaid," approved March eleventh, one thousand nine hundred and twenty-two.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The title to all the property and property rights acquired or to be acquired by the State of New Jersey under and by virtue of the agreement entered into under the authority of the act entitled "An act to authorize the acquisition by the State of the Morris Canal (as defined

in this act), in whole or in part, and all the stock of the Morris Canal and Banking Company and the rights of all stockholders in said company and in said canal property and water rights, and all or any part of right, title and interest of the Lehigh Valley Railroad Company in said canal property and water rights by virtue of its lease of said canal from the Morris Canal and Banking Company, or otherwise; to provide for a commission authorized to negotiate and agree upon terms of settlement with the Morris Canal and Banking Company and the Lehigh Valley Railroad Company, in relation to the said canal property and water rights, and to vest in said Commission certain powers necessary for carrying out the terms of settlement and to make such other provisions as may be necessary to affectuate the objects aforesaid," approved March eleventh, one thousand, nine hundred and twenty-two, other than the shares of capital stock, bonds and scrip of the Morris Canal and Banking Company shall be, and the same is hereby vested in said Morris Canal and Banking Company in trust for the State of New Jersey.

2. All acts and parts of acts inconsistent herewith be and the same are hereby repealed.

3. This act shall take effect immediately.

Approved February 28, 1923.

Chapter 78, Laws of 1924.

An Act to enable cities, towns, townships, boroughs and certain counties to acquire portions of the property, the title to which is now vested in the Morris Canal and Banking Company in trust for the State of New Jersey, upon the abandonment of navigation upon the Morris canal, upon terms and compensation fixed by the Morris Canal and Banking Company and providing for the review of said terms and compensation by the Board of Public Utility Commissioners of the State of New Jersey.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Upon the abandonment by lawful authority of navigation upon the Morris canal, any city, town, township or borough within which any property is located, the title to which is now vested in the Morris Canal and Banking Company in trust for the State of New Jersey, and any county having control of a county road lying contiguous to any such property, shall have power and authority to acquire for public use, such parts of said canal property as may be located within its boundaries, in the case of any such municipality, or as may lie contiguous to any such county road, in the case of any such county, upon terms and compensation to be fixed by said Morris Canal and Banking Company after negotiation and approved by the Governor. Such terms and compensation may be reviewed by the Board of Public Utility Commissioners of the State of New Jersey, which is hereby directed and empowered to grant such review on the application either of such municapility or county or of the Morris Canal and Banking Company; and upon such review, the said board shall have power to determine the fairness of said terms and compensation, consideration being had of the condition of the canal property taken and its effect upon any such municipality or county and upon adjacent property

and also of the nature of the use to which it is intended to devote said portion of the canal property and the estimated cost of adapting it to such new use. The said board shall have power, if it shall find said terms or compensation unfair, to fix the terms and compensation deemed by said court to be fair, which terms and compensation shall be those upon which said portion of the canal property shall be transferred to such municipality or county unless such municipality or county shall within thirty days determine not to proceed with the acquisition thereof and shall pay the costs of said proceeding; *and provided, moreover,* that to avail itself of the provisions of this section, any such municipality or county shall on or before the first day of January, one thousand nine hundred and twenty-five, adopt a resolution expressing its desire to acquire such portion of the canal property and setting forth the purposes to which it is intended to devote said property when acquired.

2. Any property of the canal not acquired under the provisions of section one of this act, may be similarly acquired by any other of said municipalities, outside the boundaries of which such portion of the canal property may lie, if such portion is so situated as to form a single contiguous tract with the canal property lying within the municipality so seeking to acquire it and is capable of development for the purpose for which said municipality intends to acquire the canal property within its boundaries; *provided,* the municipality within which such canal property lies, shall have failed to take the necessary steps to acquire such property for its use.

3. Any municipality, county or counties which shall purchase any of such property may acquire by gift, purchase or condemnation any reversionary and any other private rights in the property so purchased and in all such cases of condemnation the valuation to be paid to the owner of such reversionary or other private rights shall be the value of such rights subject to the continued

use of the property for canal purposes together with the damage, if any, arising out of the change from the use for canal purposes to the public use for which the same shall have been taken by such municipality. If in any such case of condemnation it shall be determined that the rule of valuation in this act prescribed invades the constitutional right of compensation of any private owner, the measure of compensation shall be modified accordingly and the residue of this act shall not fail.

4. In the event of a public sale of any portion of such property, any city, town, township, borough, or county as specified in section one, is hereby authorized to bid for such property either on its own behalf alone or jointly with other municipalities, such sum as the governing body of such municipality may authorize. In the event of a joint bid such joinder shall be limited to property either situated within the municipality bidding or in the municipality adjoining the municipality bidding, or so situated as to permit by joint action of said municipality and any other municipality or municipalities joining with it the development of a section of said canal property as an unsevered unit. The amount of contribution of the respective municipalities to any such joint bid, and the character of the joint user of the property so bid for, shall be authorized by resolution of the respective governing bodies of the municipalities so joining approving the execution of a contract with the other municipalities joining, which contract shall embody the amount of the respective contributions to said joint fund, the interest of the respective municipalities in the property so bid for if acquired, and the joint user to which said properties if so acquired shall be dedicated and the respective appropriations of such municipalities to the cost of adapting said properties to such users. Such contract may upon the assent of all of the governing bodies of the municipalities, parties thereto, be modified from time to time.

5. This act shall take effect immediately.

Approved March 12, 1924.

Chapter 229, Laws of 1924.

An Act to authorize the abandonment of navigation upon the Morris canal and proviidng for the dismantling of the canal and the dispositions of portions of the property, the title to which is now held in trust for the State of New Jersey by the Morris Canal and Banking Company upon terms and compensation fixed by said Morris Canal and Banking Company and providing for the review of said terms and compensation by the Board of Public Utility Commissioners of the State of New Jersey, and further providing for the management and control of such property pending the disposition thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Morris Canal and Banking Company is hereby authorized and directed to discontinue the use as a means of transportation by water of that portion of the property, the title to which is vested in the said company in trust for the State of New Jersey, which has heretofore been used as a means of transportation by water and which is located between the westerly shore or bank of the Hackensack river in the town of Kearny and the southerly line or side of Main street adjacent to Green's bridge in the town of Phillipsburg, which portion of said property is referred to in this act as the "Morris Canal" or as the "Canal"; and to discontinue the use as a means of transportation of water to the canal of those portions of such property which have heretofore been used as feeders to the canal; and for such purpose the said company is hereby authorized and directed to drain off the water from the canal and feeders, whenever aand wherever such action may be taken, in its judgment, without the creation of insanitary conditions or the impairment of

contract obligations. Such portions of such property shall be applied and are hereby dedicated, subject to the limitations hereinafter provided, to the public use as public highways for the transportation and passage thereon of persons and property and for any and all other purposes of public highways.

2. The rights vested in the Morris Canal and Banking Company to impound and divert waters of lakes, ponds, and streams, and the property and rights vested in the said company in Lake Hopatcong, Lake Musconetcong (otherwise known as Stanhope reservoir), Cranberry lake, Bear ponds, the pond on the Musconetcong river at Saxton falls, and Greenwood lake, together with all such lands, easements, rights and other property, the title to which is vested in the said company in trust for the State of New Jersey, as may be neecssary to maintain the said lakes and ponds, shall be retained by the said company in trust for the State of New Jersey, for the public use of conserving the public waters of the State and shall be and are hereby dedicated to such public use; and the said company is hereby authorized and directed to control, maintain and operate the dams and sluice gates at the said lakes and ponds for the purpose aforesaid and in such manner that the rights of the riparian owners upon said lakes and ponds and the outlets thereof shall be properly conserved.

3. The Morris Canal and Banking Company is hereby authorized to consent, under restrictions which shall not impair any existing rights, and for a consideration in each case to be fixed by its board of directors and approved in writing by the Governor of the State of New Jersey, to the diversion, for the purpose of municipal water supply, of the waters or any portion thereof, the title to the right to the use of which is vested in the said company in trust for the State of New Jersey; *provided*, that nothing in this section contained shall be construed

to dispense with any consent now or hereafter required to be obtained by any municipality, board or commission as a condition precedent to the diversion of the State's waters or to the development of a municipal water supply.

4. The Morris Canal and Banking Company is hereby authorized and directed to sell any and all of the property the title to which is vested in the company in trust for the State of New Jersey, other than the rights and property to be retained for public use as provided for in section two of this act. Wherever said property shall consist of lands so located as to be capable of use in the widening of any county road, the Morris Canal and Banking Company is authorized to transfer to the county wherein such section of the canal is located, such section thereof, upon the adoption by the board of chosen freeholders of said county of a resolution indicating the desire of said county to acquire said section for the purposes of a county road within the period hereinafter provided for the adoption of a similar resolution by municipalities; such transfer to be made upon such terms and for such consideration as shall be fixed after negotiation as hereinafter provided for in the case of municipalities and subject to the same right of review.

The Morris Canal and Banking Company is hereby authorized to transfer to the respective municipalities through which said canal passes the portions of the canal situated within their respective boundaries, exclusive of the rights and property to be retained for public use as provided in section two, upon the passage by the respective municipalities on or before the first day of January, one thousand nine hundred and twenty-five, of resolutions expressing the desire of such municipalities to acquire such portions of said canal and setting forth the purposes to which said municipalities intend to devote such property when so acquired. Upon the submission of any such resolution the Morris Canal and Banking Company is authorized to negotiate with said municipality the terms

upon which said property will be transferred to such municipality and in determining the compensation, if any, to be paid by said municipality for such property, said Morris Canal and Banking Company shall take into consideration the conditions of the canal in said municipality and the effect thereof upon said municipality and the adjoining property and also the nature of the use to which said property is to be devoted and the estimated cost of adapting the property to such new use. After the conclusion of such negotiations the Morris Canal and Banking Company shall, subject to the approval of the Governor, determine the terms upon which such transfer shall be made and the price, if any, which in its judgment, regard being had to the consideration above set forth, is a fair price for such municipality to pay; such determination, whether in the case of a municipality or of a county, as hereinabove provided, shall be subject to review by the Board of Public Utility Commissioners of the State of New Jersey, which is hereby directed and empowered to grant such review on the application either of such municipality or county or of the Morris Canal and Banking Company; and upon such review, the said board shall have power to determine the fairness of the terms and compensation determined upon by said Morris Canal and Banking Company and in the event that said board finds said terms or compensation unfair, to fix the terms and compensation deemed by said board to be fair. The terms and compensation so fixed shall be the terms and compensation for which said property shall be transferred to such municipality unless such municipality shall, within thirty days thereafter, determine not to proceed with the acquisition of said property and shall pay the costs of said proceeding. Upon the purchase as hereinabove provided by any municipality, county or counties of any such property for any such public use or uses, the property so purchased shall be applied to such public use or uses, or some of them, and such public use or uses shall supersede any other or different public use to which such property may have been theretofore dedicated.

5. If any such municipality shall fail to accept the terms and compensation for any such property fixed by the Morris Canal and Banking Company or upon review of its decision by the Board of Public Utility Commissioners as above provided for, or if prior to said first day of January, one thousand nine hundred and twenty-five, any such municipality shall fail to have adopted the resolution in section four provided for, or if prior to said first day of January, one thousand nine hundred and twenty-five, any such municipality shall have adopted a resolution declaring that it does not desire to acquire the property of said canal company located within its limits, then and in either of such events the said Morris Canal and Banking Company may transfer said property in the manner hereinafter provided.

In the first place it shall offer, subject to the same review as provided in section four, to any municipality which shall have taken appropriate steps to acquire the canal property lying within its boundaries, such portions of the canal lying in any other municipality or municipalities which shall have failed to take the necessary steps to acquire such property, as shall form a single, contiguous tract capable of development for the purpose for which said first mentioned municipality shall have acquired its tract.

In the second place, if, after a reasonable time, any municipality to which any such canal property lying without its limits shall have been offered, shall fail to have availed itself of said offer, then the Morris Canal and Banking Company, after advertisement, in such manner as may be determined by said board of directors, shall sell any unsold portions of the canal property to the highest bidder deemed by said board of directors to be responsible, at public or private sale; *provided, however,* that no such sale shall be made unless first approved, in writing, by the Governor of the State of New Jersey; *and provided, further,* that at such sale any municipality through which said canal may pass, either alone or jointly

with other municipalities through which said canal may pass, may bid for any parcel of said canal so offered for sale.

Upon any such sale, any previous dedication of the property so sold to any public use shall cease and be of no further force and effect, and the purchaser shall be entitled to take and hold such property free from any previous dedication to any public use. The said company is hereby authorized to sell, in such manner and for such price and upon such terms as the said board of directors may deem advisable, the structures and parts thereof and other materials to be removed on dismantling the canal as provided for in section seven of this act and other personal property no longer useful in connection with the canal.

6. Pending the sale of the property authorized or directed by the provisions of this act to be sold, such property shall continue to be managed and controlled by the Morris Canal and Banking Company. All the other property and rights the title to which is vested in the Morris Canal and Banking Company in trust for the State of New Jersey, shall also continue to be managed and controlled by the said company. The stock of the said company, the title to which is held in trust for the State of New Jersey, shall, at each election of directors, be voted upon in favor of the election, as directors of the said company, of the members of the Board of Conservation and Development as the same shall from time to time be constituted. The said company is hereby authorized to let part or parts of the property and property rights, the title to which is vested in the said company in trust for the State of New Jersey; *provided, however,* that any and all leasehold estates and interest so created shall be terminable upon thirty days' notice to the lessee of the desire of the said company or of the State of New Jersey to terminate the same.

7. The Morris Canal and Banking Company is hereby authorized and directed, as soon as the water shall have been drained off from the canal, to proceed promptly to remove such highway and road bridges as have heretofore been maintained by the said company at intersections of the canal with existing highways and roads and to refill the canal bed at these points and to grade down the approaches and to replace such bridges with roadways connecting with the adjoining highways or roads and graded and paved or surfaced to conform to the adjoining highways or roads respectively. The said company is hereby authorized and directed to repair and make safe the dams and sluice gates at the lakes and ponds mentioned in section two of this act and to raze and remove or put in a condition safe to life and limb all other structures heretofore maintained by the said company, and to make proper provision to prevent future obstruction of highways, roads or water courses through the decay and fall of culverts, aqueducts or other structures, and to provide for the proper drainage of the canal.

8. If the authorities having charge of any street, highway or road on which there is a bridge or crossing to be removed by the Morris Canal and Banking Company as provided in section six of this act, shall prefer to relocate or otherwise readjust such crossing in a manner or to an extent different from that provided in section six of this act, then and in any and every such case the said company is hereby authorized, instead and in lieu of constructing any such crossing as required in section six of this act, to contract with such authorities for the construction by such authorities of any such relocated or readjusted crossing and in such contract to agree with such authorities for the payment by the said company of such portion of the cost of such relocated or readjusted crossing as shall not exceed the estimated cost of the crossing instead and in lieu of which such relocated or readjusted crossing shall be so contracted for.

9. The Morris Canal and Banking Company is hereby authorized to procure and employ such legal and technical aid and to employ such administrative officers, clerical assistants and laborers as the said company may require for the purpose of enabling it to administer, in accordance with the terms of this act, the property, the title to which is vested in the said company in trust for the State of New Jersey, and the said company is hereby authorized to enter into such agreements with independent contractors as its board of directors may deem advisable in order to carry out the directions contained in this act; *provided, however,* that no such agreement involving the expenditure of more than one thousand dollars shall be entered into unless first approved in writing by the Governor of the State of New Jersey; *and provided, further,* that no such agreement shall be entered into in excess of existing appropriations available therefor and applicable thereto.

10. The board of directors of the Morris Canal and Banking Company are hereby authorized and directed, in behalf of the said company to do or cause to be done by the officers of the said company thereunto authorized by its board of directors, all acts and things and to execute or cause to be executed, all contracts, instruments of conveyance, consents, leases or other documents authorized or directed by the provisions of this act to be done or executed by the said company or which the said board of directors shall deem expedient to be done or executed for the purpose of carrying out any of the purposes of this act. All such contracts, instruments of conveyance, consents, leases or other documents shall be approved as to form by the Attorney-General before being executed by said company. Any instrument of conveyance executed by the Morris Canal and Banking Company pursuant to any of the provisions of this act shall operate to convey all the right, title and interest of the said company and of the State of New Jersey in and to the property therein described. The Board of Conservation and Development,

in whom is vested the title to the bonds issued by the said company, is hereby authorized and directed, upon any sale of any property as authorized by the terms of this act, to take such action and execute such documents as may be necessary or advisable to procure the release of such property from the lien of the mortgage securing the said bonds.

11. The Morris Canal and Banking Company, by its general manager or by any officer thereunto duly authorized by its board of directors, shall be entitled to and is hereby authorized to receive and receipt for the purchase price, rentals or other income of any property sold or let as authorized by any of the provisions of this act, and to receive and receipt for the consideration paid upon the granting of any consent, as authorized by any of the provisions of this act. All moneys so received by the said company shall be paid into the treasury of the State not later than the tenth of the month following that during which the said moneys were collected or received.

12. This act shall take effect immediately.

Approved March 13, 1924.